

Applicant : Eric Kandel et al.
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REMARKS

Claims 1-10, 12-17, 19, 20, and 25-27 are currently pending in the subject application. Applicants have hereinabove cancelled claim 25 without disclaimer or prejudice to applicants' right to pursue the subject matter of this claim in the future and added new claim 28. New claim 28 depends from claim 8, corresponds to original claim 11, and falls within group I as set forth by the Examiner in the February 22, 2008 Office Action. Support for new claim 26 can be found in the specification as originally filed at page 15, line 30. Applicants respectfully request entry of this Amendment. After entry of this Amendment, claims 1-17, 19, 20, 26 and 27 will be pending.

Restriction Requirement Under 35 U.S.C. §121

The February 22, 2008 Office Action imposes a restriction requirement under 35 U.S.C. §121 of the claims among the following five (5) groups:

- I. Claims 1-10 and 12-17, drawn to a method for treating a subject afflicted with a fear-related disorder comprising administering to the subject a therapeutically effective amount of gastrin-releasing peptide receptor agonist;
- II. Claims 19 and 20, drawn to a nucleic acid comprising gastrin releasing peptide gene and a BAC comprising the nucleic acid;
- III. Claim 25, drawn to an article of manufacture comprising a packaging material having therein a gastrin releasing peptide receptor agonist and a label indicating a use for the agonist in treating and/or inhibiting the onset of a fear related disorder in a subject;
- IV. Claims 26 and 27, drawn to a transgenic animal and a method of producing a transgenic animal whose amygdaloid

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cells specifically express an exogenous polypeptide.

The Examiner stated that the inventions listed as Groups I-IV do not relate to a single general inventive concept under PCT rule 13.1 because "they lack the same or corresponding technical features." The Examiner stated that "the technical feature linking group[s] I-IV is a gastrin releasing peptide receptor agonist for the treatment of a fear related disorder."

The Examiner also stated, *inter alia*, that Yamada et al. (*Mol. Psychiatry*, 2002, 7(1):113-117) teach a method of administering bombesin-like peptides in regulating a wide variety of behaviors; that Shumatskey et al. (*Cell*, 2002, 111(6):905-918) disclose that gastrin-releasing peptide receptor-deficient mice show decreased inhibition of principal neurons by interneurons and more persistent long-term fear memory; and that Darker et al. (*J. Pept. Sci.*, 2001, 7(11):598-605) teach a potent and synthetic gastrin-releasing peptide receptor agonist. The Examiner stated that "an artisan of skill would have been motivated to treat a subject suffering from fear related disorder by administering the agonist of GRPR as disclosed by Darker in a method disclosed by Yamada with a reasonable expectation of successfully treating fear or anxiety related disorder by administering the potent and selective GRPR agonist." The Examiner further stated that "[t]herefore the instant technical feature does not contribute over the prior art."

In response, without conceding the correctness of the Examiner's argument, applicants hereby elect, with traverse, to prosecute the invention of Examiner's claim group I, i.e. claims 1-10 and 12-17 drawn to a method for treating a subject afflicted with a fear-related disorder comprising administering to the subject a

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therapeutically effective amount of gastrin-releasing peptide receptor agonist.

The Examiner also stated that "the inventions are distinct, each from the other."

Applicant notes that 35 U.S.C. §121 states, in part, that "[i]f two or more independent and distinct inventions are claimed in one application, the Commissioner may require application to be restricted to one of the inventions." [Emphasis added]. Applicant requests that the restriction requirement be withdrawn in view of the fact that the claims of Groups I-IV are not independent. Under M.P.E.P. §802.1, "independent" means "there is no disclosed relationship between the subjects disclosed, that is, they are unconnected in design, operation, and effect...". The claims of Groups I-IV are related in that the pending claims are all drawn to methods or compositions relating to gastrin releasing peptide.

Applicant therefore respectfully asserts that two or more independent and distinct inventions have not been claimed in the subject application because the groups are not independent under M.P.E.P. §802.01. Therefore, restriction is improper.

Accordingly, applicant respectfully requests that the Examiner reconsider and withdraw the restriction requirement and examine the pending claims on the merits.

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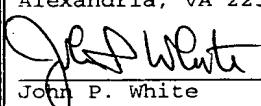
If a telephone interview would be of assistance in advancing prosecution of the subject application, applicant's undersigned attorney invites the Examiner to telephone him at the number provided below.

No fee, apart from the enclosed \$525.00 fee for a three-month extension of time, is deemed necessary in connection with the filing of this Amendment. However, if any additional fee is required, authorization is hereby given to charge the amount of such fee to Deposit Account No. 03-3125.

Respectfully submitted,



John P. White
Registration No. 28,678
Attorney for Applicants
Cooper & Dunham LLP
1185 Avenue of the Americas
New York, New York 10036
212) 278-0400

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